Organization TC2100 Bldg./Room PK2

U. S. DEPARTMENT OF COMMERCE
COMMISSIONER FOR PATENTS
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
IF UNDELIVERABLE RETURN IN TEN DAYS

OFFICIAL BUSINESS

AN EQUAL OPPORTUNITY EMPLOYER

RETURNED TO SENDER
Moved, Left no Address
Attempted not Known
Deceased
Insufficient Address
Temporary Away
No Mail Receptable RT

1123

RETURNED TO SENDER
Moved, Left no Address
Attempted not Known
Forwarding Order Expired
No Such Number
Deceased
Insufficient Address
Temporary Away
No Mail Receptable RT

1123

2175
IFW

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/847,590	05/02/2001	Reed Burkhart	M-10100 US	6510

7590 07/18/2005

JAMES S. HSUE
MAJESTIC, PARSONS, SIEBERT & HSUE
FOUR EMBARCADERO CENTER
SUITE 1450
San Francisco, CA 94111

EXAMINER	
NANO, SARGON N	
ART UNIT	PAPER NUMBER
2157	

DATE MAILED: 07/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/847,590	BURKHART, REED	
	Examiner	Art Unit	
	Sargon N Nano	2157	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *02 May 2001*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1 - 28* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1 - 28* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *7 April 2003*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. This action is responsive to the application filed on May 2, 2001.Claims 1 – 28 are pending examination.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is not clear as to what is inputted into the computer telemetry.

Claim Rejections - 35 USC § 102

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1 - 3, and 6 - 17 are rejected under 35 U.S.C. 102(e) as being anticipated by Alles et al. U.S Patent No. 6,466,976 (referred to hereafter as Alles).

As to claim 1, Alles teaches an automated negotiation and provisioning method for broadcast or other communication or storage resources or a system incorporating such resources, in which content is admitted to the individual resources or system, and/or managed within the system via an automated negotiation and provisioning system manager (computer) that allocates resources or directs system operation, comprising the iterated steps of:

inputting into a computer the rules for admission to and/or use of the resources and/or system (see col. 4 lines 42 – 59 Alles discloses customized service policies to be provided to users),

outputting from the computer a summary of the rules (see col. 12 lines 18 – 32 and fig 5A, Alles discloses different policy rules),

inputting into the computer offered terms for admission or use by prospective users of the resource or system (see col. 12 lines 24 – 38, Alles discloses the policy rules for subscribers),

outputting from the computer intermediate determinations and/or final binding terms for successful offers (see col. 12 lines 39 – 58, Alles discloses rule parameters that are readily available up front) .

As to claim 2, Alles teaches the method of claim 1, with an additional iterated step of: outputting from the computer command signals to resource or system controllers or other system elements that reflect binding determinations from the

automated negotiation and allocation process (see col.12 lines 39 – 67, Alles discloses rule parameters that are readily available up front and the IP address generated).

As to claim 3, Alles teaches the method of claim 1, with an additional iterated step of: inputting into the computer telemetry (or other automated or manual observations) to be used in the rules (see col.col.13 lines 1 – 7) .

As to claim 6, Alles teaches the method of claim 1, in which some of the content admitted to the system or controlled by the system is encrypted in order to permit selective access to the content solely by one or another subset of system receivers intended to receive that content (see col.12 lines 24 – 32, Alles discloses data encryption using encryption protocol).

As to claim 7, Alles teaches the method of claim 1, in which a parameter representing some number of real or hypothetical receivers is used in the rules (see col.3 line 6 – 13, Alles discloses that ISN may be used for serving a large number of subscribers).

As to claim 8, Alles teaches the method of claim 1, in which a guide is used to simplify identification of content traversing the resource or system of resources, such guide providing custom-tailored views of content schedules or repositories permissible to be viewed by a given viewer and either communicated over the resource, system resources, or the Internet (or alternative dedicated or dial-up or virtual data transmission circuits) (see col.3 lines 16 – 22, Alles discloses the unique identification of the flow).

As to claim 9, Alles teaches the method of claim 1, in which a guide is used to communicate the status of the rules-based procedure including showing availability of

capacity and status of resources and negotiations, such guide being communicated over the resource, system resources, or the Internet (or alternative dedicated or dial-up or virtual data transmission circuits) to system users (see col. 8 lines 11 – 37, Alles discloses negotiation between two end system and the port information contained in the packets).

As to claim 10, Alles teaches the method of claim 1, in which the content, terms of offers, and other aspects of resource and/or system operation are categorized for rules-processing, allocation, control, and guide purposes according to sets of parameters associated with a plurality of templates, each template including a certain set of parameters (see col.7 line 51 – col. 8 line 3, Alles discloses the aggregate bandwidth which can be used by a subscriber).

As to claim 11, Alles teaches the method of claim 10, in which the parameters include one or more of the following: temporal parameters, start time, duration, maximum acceptable jitter, periodicity, number of instances, rate parameters, minimum bit rate, maximum bit rate, average bit rate, conditional minimum bit rate, conditional maximum bit rate, second, or third moments of the bit rate, periodic first, second, or third moments of the bit rate, acceptable probability of rate adaptation, decode buffer status, volume of data, interest area, price to prospective content users or viewers, and other rules of access for prospective users or viewers (see col.2 lines 55 – 63, Alles discloses the service policy treatment according to data bits at certain time of the day).

As to claim 12, Alles teaches the method of claim 1, in which a cache is used to selectively store content received over a broadcast or communication system resource (see col.12, line 24 – 31, Alles discloses storing of the cell).

As to claim 13, Alles teaches the method of claim 12, in which the content admitted to the cache is decrypted (if it had been encrypted) and then re-encrypted (or encrypted for the first time) for controlling access of the content as it is used from the cache (see col.12 lines 24 – 38, Alles discloses the encryption of data).

As to claim 14, Alles teaches the method of claim 12, in which the cache is positioned directly downstream of a broadcast receiver and positioned directly downstream of the cache is a high-bandwidth localized computer network (see col.13 lines 1 – 15 , Alles discloses allocation of bandwidth to different connection sharing available bandwidth).

As to claim 15, Alles teaches the method in which the inputting and outputting take place on different computers connected via a network (see col. 6 lines 43 – 51 and fig.1 Alles discloses a network with multiple users).

As to claim 16, Alles teaches the method in which the inputs derive from either real-time elections or agent-actuated elections according to preset condition-based elections (col.4 lines 43 – 56 Alles discloses the rules of service).

As to claim 17, Alles teaches the method in which some or all of the steps are recorded and reported to cooperative billing, conditional access, or other cooperative process or system (see col.4 lines 57 - 59).

Claim 19 is rejected under 35 U.S.C. 102(e) as being anticipated by Dinwoodie U.S Patent No. 6,415,269 (referred to hereafter as Dinwoodie).

As to claim 19, Dinwoodie teaches a method for aggregating system users into a communications neighborhood, community, or other focal area comprising:

using multiple access sharing techniques (such as TDMA, SDMA, CDMA, FDMA, a combination thereof, or other multiple access technique) for sharing a communications channel (see col. 5 lines 38 – 45 , Dinwoodie discloses a predetermined time for each participant to place a bid);

in which the communications channel provides connectivity to a plurality of receivers, each of which may use the communications channel for internal communication, communication with partners, communication with suppliers, communication with customers, or other entity (see col. 3 line 66 – col.4 line7, Dinwoodie discloses communication paths between remote locations and auction site).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 4, 5, 18, and 20 - 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alles and further in view of Dinwoodie U.S Patent No. 6,415,269 (referred to hereafter as Dinwoodie).

As to claim 4, Alles fails to teach the method in which the resource or system of resources includes a geo-synchronous satellite, however, Dinwoodie teaches the method in which the resource or system of resources includes a geo-synchronous satellite (see col. 3 line 6 – 17, Dinwoodie discloses a network that include satellite communications system) It would have been obvious to one of the ordinary skill in the art to incorporate the geo-synchronous satellite in Alles because doing so would enable the participation of prospect bidders at remote location.

As to claim 5, Dinwoodie teaches a terrestrial-based wireless transport (see col.3, lines 6 –17).

As to claim 18, Alles does not teach the method in which a transaction is effected either creating automatic charges or debits to an account or initiating an instant transfer of funds, however Dinwoodie teaches the method in which a transaction is effected either creating automatic charges or debits to an account or initiating an instant transfer of funds (see col.6, lines 51 – 60, Dinwoodie discloses the capabilities of receiving bids from participants having multi-cultures, languages and currencies) (see col.6, lines 51 – 60, Dinwoodie discloses the capabilities of receiving bids from participants having multi-cultures, languages and currencies) . It would have been obvious to one of the

ordinary skill in the art to incorporate creating automatic charges or debits to an account to insure the transfer of funds in case the bid is accepted.

As to claim 20 Dinwoodie teaches the method in which the rules for admission or control aim to maximize some objective, such as: the unit price for some commodity measure, the total number of users, or total revenue (see col. 5 lines 12 – 17, Dinwoodie discloses the generation of bid by pressing the pound "#" symbol key on keypad).

As to claim 21, Dinwoodie teaches the method in which the rules involve one of a number of auction structures, such as: sealed bid auction, first price auction, discriminatory auction, second price auction (Vickrey auction), uniform price auction, open bid auction, English auction, Dutch auction, all-pay auction, or common value auction (see col.5 lines 10 – 21 Dinwoodie discloses the beginning of accepting bids).
As to claim 22, Dinwoodie teaches the method in which the rules involve one of a number of options structures (see col. 4 lines 44 – 47, Dinwoodie discloses auction data).

As to claim 23, Dinwoodie teaches the method in which the rules are specific with regard to the time period during which offers may be input, and the inputting of offered terms is during that time period (see col.5 lines 7 – 22 Dinwoodie discloses the cycle time during which bids are accepted).

As to claim 24, Dinwoodie teaches the method in which the rules are specific with regard to the time period during which delivery, control, and/or storage would take place, and the outputted control signals correspond to that time period (see col. 5 lines

38 – 44 Dinwoodie discloses the participant is locked out if a bid is not received after a predetermined time).

As to claim 25, Dindoodie teaches the method in which the rules involve successive stages each involving one or more of the methods herein described, each method used either independently or in combination with other methods, where successive stages are begun or ended by rules-based determinations (see col. 6 lines 19 - 29. Dinwoodie discloses visual acceptance signal with accepted bid).

As to claim 26, Dinwoodie discloses the method in which subscribers, content recipients, viewers, other system users or prospective users provide information to the computer regarding changes in subscription status, election of pay-per-view event options, viewing of a given content segment, or other feedback or interactive message to be used in associated reporting and billing processes (see col. 6 lines 51 – 60, Dinwoodie discloses the communicating of bids utilizing input devices).

As to claim 27, Dinwoodie teaches the method, in which a graphical user interface is used as the remote client interface for the entity (or entities) seeking to effect content delivery, control, or storage, where the graphical user interface is linked to the computer via the Internet or dedicated or dial-up or virtual data transmission circuits, and where the remote client interface is automated with a software agent acting as a proxy for the remote entity (see col. 6 lines 19 – 29, Dinwoodie discloses the a visual acceptance signal with accepted bid amount).

As to claim 28, Dinwoodie teaches the method in which a contract is established between parties in advance of enactment of their respective roles for any

implementation of said contract establishing the legal basis for the procedures of such an implementation (see col. 6 lines 19 – 29).

Conclusion

4. The prior art made of record and nor relied upon is considered pertinent to applicant's disclosure

Connectionless communications Network U.S. Patent No. 6,480,495 by Mauger et al.

Method for Discriminating and routing Data Packets Based On quality Of service requirement U.S. Patent No.6,522,658. by Roccanova.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sargon N Nano whose telephone number is (571) 272-4007. The examiner can normally be reached on 8 hour.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status

information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sargon Nano
Patent Examiner
Art Unit 2157
Nov.11, 01

SALEH NAJJAR
PRIMARY EXAMINER

Notice of References Cited	Application/Control No. 09/847,590	Applicant(s)/Patent Under Reexamination BURKHART, REED	
	Examiner Sargon N Nano	Art Unit 2157	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
	A	US-6,480,495	11-2002	Mauger et al.	370/395.65
	B	US-6,522,658	02-2003	Roccanova, Gerard	370/441
	C	US-6,415,269	07-2002	Dinwoodie, David Lionel	705/37
	D	US-6,466,976	10-2002	Alles et al.	709/224
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

U.S. Department of Commerce, Patent and Trademark Office	Atty Docket No.	Application No.
	M-10100 US	09/847,590
INFORMATION DISCLOSURE STATEMENT BY APPLICANT	Applicant(s)	Confirmation No.
(Use several sheets if necessary)	Reed Burkhart	Unknown
	Filing Date	Group
	5/2/01	2661

U.S. Patent Documents

*Examiner Initial		Document Number	Date	Name	Class	Subclass	Filing Date If Appropriate
S.N	AA	5,659,350	08/19/97	Hendricks et al.			
S.N	AB	5,926,745	07/20/99	Threadgill et al.			
S.N	AC	5,953,229	09/14/99	Clark et al.			
S.N	AD	6,023,606	02/08/00	Monte et al.			
	AE						
	AF						
	AG						
	AH						
	AI						
	AJ						

Foreign Patent Documents

							Translation	
		Document	Date	Country	Class	Subclass	Yes	No
	AK							
	AL							
	AM							
	AN							
	AO							

OTHER ART (Including Author, Title, Date, Pertinent Pages, Etc.)

S.N	AP	E.W. Fulp et al., "Paying for QoS: An Optimal Distributed Algorithm For Pricing Network Resources," *International Workshop On Quality of Service (IWQOS)*, Page(s) 75-84. XP002154150.
S.N	AQ	K. Hol, "Bit By Bid By Bit Demand and Supply of Bandwidth Through Electronic Auctions," *38th European Telecommunications Congress – Proceedings Networking the Future.* Utrecht, NL. Aug. 24-28, 1999, London: IBTE, GB, Aug. 24, 1999, pp. 143-147. XP000847185.
S.N	AR	R. Tedesco, "Buing Air Time Online," *Broadcasting and Cable Cahners*, New York, New York, US, Feb. 28, 2000. XP002938995.
NO Copy Submitted.	AS	International Search Report for corresponding PCT application No. PCT/US01/14446 dated November 7, 2002.

Examiner SARGON NANO	Date Considered Oct. 2. 2004

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with your communication to applicant.